

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

NICOLAS SUBDIAZ-OSORIO,

Petitioner/Appellant

v.

Case No. 14-cv-1227-pp
Appeal No. 18-1061

MARC CLEMENTS,

Respondent/Appellee

**ORDER REQUIRING THE PETITIONER/APPELLANT TO FILE A CERTIFIED
COPY OF HIS TRUST FUND ACCOUNT STATEMENT FOR THE SIX-MONTH
PERIOD PRECEDING THE DATE ON WHICH HE FILED HIS APPEAL**

On June 22, 2017, the court entered an order denying the petitioner's request for *habeas* relief and dismissing the petition. Dkt. No. 22. Two weeks later, the petitioner filed a motion to alter or amend the judgment. Dkt. No. 24. The court denied that motion on December 14, 2017. Dkt. No. 25. On January 9, 2018, the petitioner filed a notice of appeal. Dkt. No. 26. On January 19, 2018, the Seventh Circuit received from the petitioner a motion to proceed on appeal *in forma pauperis*. Dkt. No. 30. As the court of appeals stated, a party seeking to proceed on appeal *in forma pauperis* should file that request with the district court in the first instance. Id. Accordingly, the Seventh Circuit transferred the motion to this court for ruling. Id.

Under the Prison Litigation Reform Act, a prisoner must pay the applicable filing fees in full for a civil case. 28 U.S.C. §1915(b). If a prisoner does not have the money to pay the \$505 filing fee in advance for an appeal, he can request leave to proceed without prepaying the filing fee. The court must assess an initial partial filing fee of twenty percent (20%) of the average

monthly deposits to the plaintiff's prison account or average monthly balance in the plaintiff's prison account for the six-month period immediately preceding the filing of the notice of appeal, whichever is greater. 28 U.S.C. §1915(b)(1).


After the prisoner pays the initial partial filing fee, the prisoner must make monthly payments of twenty percent of the preceding month's income until the filing fee is paid in full. 28 U.S.C. §1915(b)(2). The agency that has custody of the prisoner will collect the money and send payments to the court. No payment is required in months where the prisoner's preceding month's income is \$10.00 or less. Id.

In this case, the petitioner/appellant has not filed the certified copy of his trust fund account statement for the six-month period immediately preceding the date he filed his notice of appeal. Section 1915(a)(2) requires that a prisoner seeking to proceed without prepaying the filing fee must file this statement, so that the court can calculate the initial partial filing fee.

The court **ORDERS** that the petitioner/appellant shall file with the district court clerk a certified copy of his trust account statement for the six-month period preceding January 9, 2018 in time for the court to receive it by the end of the day on **Friday, May 18, 2018**.

Dated in Milwaukee, Wisconsin this 26th day of April, 2018.

BY THE COURT:


HON. PAMELA PEPPER
United States District Judge